

2005 NOV 15 A 11: 39

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Broyhill for Congress and Tim Nerhood,) MUR 5648
In his official capacity as treasurer)

SENSITIVE

RESPONDENTS' BRIEF

I. INTRODUCTION

J. Edgar Broyhill II was an unsuccessful candidate for the Republican Party's nomination for the House of Representatives from the 5th Congressional District in North Carolina in 2004.¹ Broyhill for Congress ("Committee") was the principal campaign committee for Mr. Broyhill's campaign. Tim Nerhood is the current treasurer of Broyhill for Congress. Broyhill for Congress and Mr. Nerhood, in his official capacity as treasurer ("Respondents"), contend the General Counsel's recommendation the Federal Election Commission ("FEC" or "Commission") find probable cause to believe Respondents violated 2 U.S.C. §§ 441a-1(b)(1)(C), 441a-1(b)(1)(D), 441a-1(b)(1)(E) and 11 C.F.R. §§ 400.21(b) and 400.22(b) is an unnecessary reaction to any inadvertent or minor reporting errors made by the Respondent Committee.²

II. SUMMARY OF FACTS

Respondents have always taken compliance with FEC reporting requirements very seriously. Mr. Broyhill, as the son of a former Congressman, is a strong believer in the importance of campaign finance laws and took all reasonable steps to ensure his campaign was in compliance with any legal and reporting requirements. See June 30th, 2005 affidavit of Edgar

¹ The General Counsel's probable cause brief named the Respondent as J. Edgar Broyhill III. For the record, there is no J. Edgar Broyhill III. The candidate's name is J. Edgar Broyhill II.

² Mr. Nerhood replaced Laney Orr, Jr. as treasurer on March 31, 2005, and was not the treasurer at the time any reporting errors may have occurred. He is answering the General Counsel's brief with the understanding that any violations that occurred are those of the Committee, not himself. Mr. Nerhood assumes responsibility only for ensuring the Committee files this brief and answers any additional correspondence from the Commission.

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1 Broyhill II ("Broyhill Affidavit") attached hereto as Exhibit 1. Before Mr. Broyhill's campaign
2 began, he and his staff sought the advice of prominent election law attorney Jill Holtzman Vogel
3 on a wide range of matters to ensure they complied with all necessary legal and reporting
4 requirements. Part of that discussion focused on the ability of Mr. Broyhill to make loans to his
5 campaign, the effect such loans would have on the contribution limits to his opponents, how to
6 report these loans, and the complicated nature of the primary dates in the North Carolina
7 Congressional election. Ms. Vogel explained this new area of the law and campaign staff took
8 notes. Unfortunately, Respondents did not understand, or became confused, about certain dates
9 and amounts, and believed the Committee's Form 10 reporting obligations did not begin until
10 Mr. Broyhill's personal contributions to it exceeded \$375,000.

11 On March 1, 2004, Mr. Broyhill made a \$50,000 loan to Broyhill for Congress which
12 increased his aggregate personal contributions above the \$350,000 reporting threshold. Due to
13 their misunderstanding, Respondents did not realize they had exceeded a new reporting
14 threshold. Within one day of realizing its error, Respondents filed the required FEC Form 10 on
15 March 12, 2004, ten days after it was due.³ Mr. Broyhill immediately reiterated his specific
16 instructions to his staff that every donation of his personal funds must be promptly reported to
17 the FEC. *See* Broyhill Affidavit attached hereto as Exhibit 1. The Campaign Manager for the
18 Committee then established a system to help ensure compliance with future reporting, *see* July 1,
19 2005 affidavit of Kim Hutchins ("Hutchins Affidavit") attached hereto as Exhibit 2, and the
20 Finance Director for Broyhill for Congress made these filings. *See* April 5, 2005 affidavit of
21 Christy Wilson ("Wilson Affidavit") and exhibits thereto attached hereto as Exhibit 3.

³ This Form 10 as well as all of the subsequent Form 10s filed by the Committee did not include \$1,500 Mr. Broyhill contributed (and reported on Schedule A) in June 2003 at the start of his campaign. This omission from the cumulative total of the Form 10s was a harmless clerical error having no impact on any filing deadlines or the contribution limits to Mr. Broyhill's opponents.

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1 It is undisputed that following this initial filing, Respondents timely filed *nine* required
2 FEC Form 10s in connection with loans to the campaign.⁴ The General Counsel has
3 acknowledged these forms were timely filed. General Counsel's Brief at 2-3.

4 The General Counsel contends there were five untimely-filed FEC Form 10s in
5 connection with loans made by Mr. Broyhill to the Committee:

6 On March 12, 2004, Mr. Broyhill contributed \$25,000 to his campaign. Despite the
7 General Counsel's contention to the contrary, the required report was timely filed as evidenced
8 by the facsimile confirmation sheet and email delivery confirmation dated March 12, 2004. *See*
9 Wilson Affidavit Ex. A attached hereto as Exhibit 3.

10 On April 30, 2004, Mr. Broyhill made a loan of \$150,000 to his campaign. The
11 corresponding Form 10 was due the following day, on May 1. Despite the General Counsel's
12 contention to the contrary, this report was timely filed as evidenced by the email delivery
13 notification showing delivery of the Committee's Form 10 to an FEC email address on May 1.
14 Wilson Affidavit Ex. B attached hereto as Exhibit 3.

15 On June 8, 2004, Mr. Broyhill made a loan of \$50,000 to his campaign. The
16 corresponding Form 10 was due the following day, on June 9. Despite the General Counsel's
17 contention to the contrary, this report was timely filed as evidenced by the email delivery
18 notification showing delivery of the Committee's Form 10 to an FEC email address on June 9.
19 Wilson Affidavit Ex. C attached hereto as Exhibit 3.

⁴ The dates of these loans were March 19, March 31, May 21, May 28, June 4, June 15, July 6, July 12, and July 14 of 2004.

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1 On June 19, 2004, Mr. Broyhill made a loan of \$50,000 to his campaign. Due to
2 administrative burdens which occurred over that weekend, this report was filed three days late
3 and the respondent Committee takes full responsibility for that tardiness.

4 Lastly, on June 28, 2004, Mr. Broyhill made a loan of \$90,000 to his campaign. The
5 General Counsel contends the Committee failed to file a Form 10 for this loan. While
6 Respondents are unable to find documentation showing this information was filed with the FEC,
7 they are certain they submitted a Form 10 in connection with the loan. *See* Hutchins Affidavit
8 attached hereto as Exhibit 2. For example, subsequent Form 10s filed by the Committee on July
9 6, July 12, and July 14 all include the amount of the June 28 loan in their Cumulative Totals of
10 "Total Expenditures Election Cycle to Date." Admittedly, this fact does not provide conclusory
11 proof the Committee timely filed a Form 10 for the June 28, 2004 loan, but it does lend a strong
12 inference that the filing took place. Respondents will, however, concede information about this
13 claim was effectively filed eight days late.

14 **III. ANALYSIS/ARGUMENT**

15 When a candidate to the U.S. House of Representatives makes aggregate expenditures
16 from personal funds of \$350,000 or more, the candidate or his or her authorized committee shall
17 "file" a notification of the expenditure on an FEC Form 10 within twenty-four hours of
18 exceeding the threshold. 2 U.S.C. § 441a-1(b)(1)(C); 11 C.F.R. § 400.21(b). For each additional
19 expenditure of \$10,000 or more, the candidate or committee is required to "file" an additional
20 notification within twenty-four hours. 2 U.S.C. § 441a-1(b)(1)(DC); 11 C.F.R. § 400.22(b).
21 Thus, the legal question the Commission must address is, at what point did Respondents
22 successfully fulfill their requirement to file these reports in accordance with the statute and
23 interim regulations?

1 At the time of the Broyhill campaign the FEC did not have an electronic system for
2 receiving Form 10s as presently required under 11 C.F.R. § 400.24(b); instead Committees were
3 emailing or faxing the information to the FEC. Thus, regulations and policy interpreting
4 electronic receipt of notification under 11 C.F.R. 100.19(g) and 11 C.F.R. § 400.24(b) are not
5 applicable here. But other FEC regulations defining “filing” are instructive. For example, the
6 FEC has provided that reports filed by overnight or certified mail postmarked “by the filing date”
7 are considered timely filed. 11 C.F.R. § 104.5(e). In fact, the Commission instructs mail filers
8 to “keep [their] mailing receipt with the postmark as *proof of filing*.” See FEC Record, Vol. 31,
9 No. 7 (July 2005) (emphasis added). That is what Respondents essentially did and they have
10 provided such proof of filing to the Commission.⁵

11 Other federal regulations addressing filing by e-mail or facsimile utilize a similar
12 approach. Internal Revenue Service rules provide that documents transmitted “by electronic
13 mail or facsimile shall be deemed received the day the request is *transmitted* successfully.” 26
14 C.F.R. § 301.6104(d)-1(d)(2)(ii)(A) (emphasis added). Filings by facsimile to the Federal Labor
15 Relations Authority are considered served on “the date the facsimile transmission is *transmitted*
16 and, when necessary, verified by a *dated facsimile record of transmission*.” 5 C.F.R. §
17 2429.12(c) (emphasis added); *see also* 5 C.F.R. § 1203.14(b) (“Service by facsimile is
18 accomplished by transmitting the pleading by facsimile...”); 5 C.F.R. 1203.13(d) (“If [filing]
19 was submitted by facsimile, the date of the facsimile is considered to be the filing date.”).

20 Applying this common-sense approach to the instant matter shows Respondents met their
21 filing requirements for the March 12, April 30, and June 8, 2005 reports by successfully

⁵ Exhibit A of Exhibit 3 is a common facsimile transmission confirmation automatically generated by facsimile machines. Exhibits B and C of Exhibit 3 are read receipts generated by Microsoft Office to ensure an email has been delivered.

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1 transmitting the required Form 10s. Proof of such transmission has been provided by the
2 Committee in the form of fax transmission reports and email receipt confirmations. Respondents
3 were required to timely “file” Form 10s and that is precisely what they did, as both a matter of
4 fact and as a matter of law.⁶

5 The General Counsel concludes the absence of the March 12, April 30, and June 8, 2004
6 Form 10s in the Commission’s records must mean Respondents did not “file” those forms. What
7 came of these forms after the Committee successfully transmitted them remains an open
8 question, but not one Respondents are responsible for answering. The FEC’s inability to account
9 for these three Form 10s does not create a presumption Respondents did not meet their
10 obligations. Respondents steadfastly maintain they filed these required reports and thus should
11 be immune from any further action by the Commission. Respondents will concede, however, it
12 filed the March 12, 2004 report ten days late, filed the June 19, 2004 report three days late, and
13 effectively filed the June 28, 2004 report eight days late.

14 **IV. MITIGATING FACTORS**

15 If the Commission decides there is probable cause to believe some FEC Form 10s were
16 filed late, there are several additional factors favoring a determination by the Commission to take
17 no further action.

18 First, these were new reporting requirements: certainly new to a first-time candidate, but
19 also new to the Commission. As with many new regulations or reporting requirements, the
20 Commission has often given the regulated community one election-cycle to “warm up” to new

⁶ In response to Respondents’ evidence of it making these three timely filings, the General Counsel contends “according to the computer generated facsimile and electronic mail receipt logs maintained by the Information Division, the Commission did not receive these Form 10s . . . in a timely manner.” General Counsel’s Brief 2 n.2. Respondents have not been afforded the privilege of viewing these receipt logs and are not in a position to explain why they do not show the Commission’s receipt of materials that were timely filed by Respondents.

1 forms and reporting deadlines. This was particularly true when the Commission introduced the
2 new forms and reporting requirements for non-federal contributions. Given the quick filing
3 periods involved with this rule, such a "warm-up" period is appropriate here.

4 Second, while the Commission has since developed an electronic Form 10 and
5 complementary software to facilitate electronic filing of Form 10s, no such system was in place
6 during the 2004 election cycle. Respondents could only transmit required information to the
7 Commission either by facsimile or email, especially since the quick deadlines for the filing of
8 Form 10 eliminated the use of mail. In addition, campaigns had to rely on programming their
9 own email systems to generate an email "read receipt" from the Commission because the FEC's
10 server does not acknowledge receiving emails. That is exactly what the Finance Director did in
11 this case, and she has provided proof of these "read receipts." See Wilson Affidavit attached
12 hereto as Exhibit 3. Now that the Commission has published Form 10 software for the 2006
13 cycle, more committees, including Respondent if Mr. Broyhill chooses to run for federal office
14 again,⁷ will have an appropriate tool with which to meet this requirement. From here on, both
15 the Commission and all candidates can be assured the Commission has received these reports.
16 Penalizing the Broyhill committee for trying to work within a temporary reporting system to the
17 best of its ability is not just.

18 Third, Respondents' allegedly late reporting did not prejudice the public or Mr.
19 Broyhill's opponents. It was well known that Mr. Broyhill was spending personal money on his
20 campaign. The first \$326,500 of his contributions had already been reported months before the
21 first Form 10 was due. The three reports the Committee concedes were filed late were only tardy

⁷ Mr. Broyhill has no plans at this time to run for federal office again. His candidacy in 2004 was a single, sole occurrence.

1 by ten, three and eight days and were disclosed well before the primary election. The Committee
2 timely reported all the candidate's contributions on its Schedule A. Mr. Broyhill's opponents
3 were afforded ample notice, time and ability to raise additional funds allowed under this rule,
4 *which is whole point of this new reporting requirement.* After an opponent brought the initial
5 late filing to the attention of the Broyhill Campaign, the Committee continually notified the
6 opposing candidates of all Mr. Broyhill's contributions. No opponent ever again complained of
7 any late reporting of Form 10s by the Broyhill campaign.

8 Finally, Mr. Broyhill finished third in the primary, so any violations did not have a
9 decisive impact on the election.

10 The Commission cannot ignore the vigor with which Respondents attempted to comply
11 with the new regulations. Respondents did not turn a blind eye to this new requirement, rather
12 they went to great lengths to comply with the law in good faith: they consulted an election law
13 attorney; they talked with the FEC Helpline; they kept relevant documents, fax coversheets and
14 email notifications supporting their filings; the candidate personally reminded his staff of this
15 reporting requirement; the Campaign Manager (a banker of twenty years) instituted a "dual-
16 control show me" system for the filing of reports; and the Committee's Finance Director did an
17 excellent job of FEC compliance during her first federal campaign. *See Broyhill Affidavit*
18 *attached hereto as Exhibit 1 and Hutchins Affidavit attached hereto as Exhibit 2.* Examining of
19 the totality of Respondents' filings during this time period reveals the three filings in question
20 are a small exception to a largely compliant record of campaign finance disclosure.
21 Respondents' filing missteps were unfortunate mistakes, not calculated steps to deceive the
22 Commission or Mr. Broyhill's opponents.

1 V. CONCLUSION

2 All of the above leads to the following conclusion: Respondents, despite facing new and
3 unfamiliar regulations and a makeshift reporting mechanism at the FEC, were in substantial
4 compliance with their reporting requirements. Respondents concede they filed an initial Form 10
5 ten days late and two subsequent Form 10s three and eight days late, disclosing \$50,000, \$50,000
6 and \$90,000, respectively. Their minor missteps are not deserving of censure by the
7 Commission. If the Commission concludes there is probable cause to believe Respondents have
8 violated any provisions of FECA, Respondents respectfully request the Commission take no
9 further action on this matter.

10
11 Respectfully Submitted,

12 
13 _____
14 Craig Engle
15 Counsel for the Respondents
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BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|----------|
| In the Matter of |) | MUR 4648 |
| |) | |
| Broyhill for Congress and Laney Orr, Jr., |) | |
| in his official capacity as treasurer |) | |
| and J. Edgar Broyhill III |) | |

AFFIDAVIT OF J. EDGAR BROYHILL II

J. Edgar Broyhill, being duly sworn, deposes and states as follows:

1. I am over the age of 18 and am competent to testify to the facts stated herein, and I have firsthand knowledge regarding the events that are the subject matter of the above captioned case.

2. My father was a Member of Congress from January 3, 1963 to November 4, 1986. During those years, I participated in several of his campaigns and watched firsthand the efforts of his staff to comply with the Federal Election Campaign Act ("the Act") and the importance he placed on ensuring his campaign remained in compliance with the law. I also witnessed the importance the media, my father's opponents and the government placed on the prompt and accurate disclosure of FEC reports. I personally share and believe in the Act's importance as well.

3. I was also generally aware that the Federal Election Campaign Act changed substantially with the passage of the Bi-Partisan Campaign Reform Act. More specifically, I was aware there were new regulations governing the use and reporting of personal funds contributed to the campaign by the candidate.

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4. To make sure I, and my campaign, understood these new rules, I instructed my Campaign Manager to contact an election law attorney who could give us a briefing on how to comply with the new laws.

5. Two members of my campaign staff (Kim Hutchens and Paul Shumaker) and I participated in a long conference call with Jill Holtzman Vogel, a prominent election law attorney. One of the topics discussed was how to comply with the new laws regarding contributions made by candidates. I personally heard and agreed with a discussion regarding the filing of FEC Form 10.

6. On or around March 2, 2004, my campaign had a Form 10 filing requirement. The Campaign Finance Director, Christy Wilson, was responsible for making our FEC filings but was not, unfortunately, told or aware of the FEC Form 10 filing requirement. Upon learning that the filing was overdue, I instructed my campaign to file the proper reports immediately. They did so.

7. Throughout the course of my Primary, I periodically loaned my campaign additional personal funds. On several occasions, I would mention to the staff that my donations "would need to be reported" or that they "should not forget to report this loan."

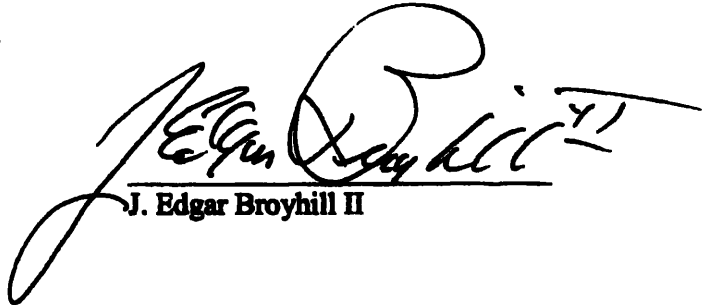
8. Because of my statements, my campaign began promptly reporting all my subsequent donations, with the exception I am told, of two reports in late June. This late reporting was contrary to my specific instructions that every donation of my personal funds be promptly reported to the FEC and my opponents.

9. Although my expenditure of personal funds was not a surprise to the media or my opponents, I do not underestimate the importance of prompt and complete

FEC reporting. If I am involved in any future campaign, I will ensure my Committee diligently complies with every FEC reporting requirement.

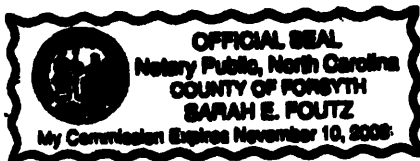
Further, the Affiant sayeth not.

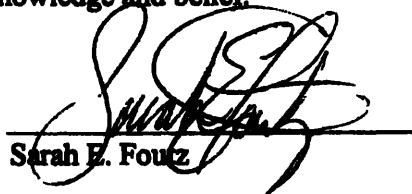
Signed this 30th day of June, 2005.


J. Edgar Broyhill II

STATE OF NORTH CAROLINA)
COUNTY OF FORSYTH)

This 30th day of June, 2005, J. Edgar Broyhill, II, personally appeared before me, a Notary Public in and for the State and County aforesaid, who after being duly sworn on oath acknowledged the foregoing instrument and stated that the information contained herein is true and correct to the best of his/her knowledge and belief.




Sarah E. Foutz

My Commission Expires: November 10, 2009

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BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|----------|
| In the Matter of |) | MUR 4648 |
| |) | |
| Broyhill for Congress and Laney Orr, Jr., |) | |
| in his official capacity as treasurer |) | |
| and J. Edgar Broyhill III |) | |

AFFIDAVIT OF KIM HUTCHENS

Kim Hutchens, being duly sworn, deposes and states as follows:

1. I am over the age of 18 and am competent to testify to the facts stated herein and I have firsthand knowledge regarding the events that are the subject matter of the above captioned case. I was the Campaign Manager for the Broyhill for Congress Campaign ("Campaign").

2. On or around (Date: 2/20/05), I participated in a telephone call with attorney Jill Holtzman Vogel. Part of the discussion centered on the law regarding a candidate's donation of personal funds. Unfortunately her advice was either misconstrued or not correctly relayed to Christy Wilson who was responsible for the Committee's FEC filings.

3. After March 12, 2004, Ms. Wilson and I set up a dual-control system for all future transmittals of all Form 10s to the FEC and the opposing candidates. As a former banker of 17 years, I am thoroughly aware of the importance of a dual-controlled system for reporting, and implemented such for all FEC reporting requirements. Our system required Christy Wilson to prepare the Form 10s for submission, allow me to view the form, submit the form, and then "show me" the receipt or acknowledgement from the FEC.

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4. I believe Christy Wilson sent on a timely basis all required Form 10s to the FEC and our opponents. I visually saw each form, and Ms. Wilson visually showed me the receipt message from the FEC for each form. I believe we were in full compliance of the 24-hour rule.

5. Throughout the Primary, the candidate would periodically remind me or the staff that he was considering lending the campaign additional personal funds and that we should ensure that the amounts were timely and correctly reported.

Further, the Affiant sayeth not.

Signed this 7th day of July, 2005.

Kim Hutchens
Kim Hutchens, Campaign Manager
Broyhill for Congress

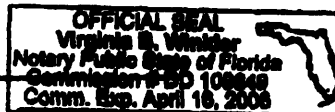
STATE OF Florida)
COUNTY OF Sarasota)

This 7th day of July, 2005, Kim Hutchens, personally appeared before me, a Notary Public in and for the State and County aforesaid, who after being duly sworn on oath acknowledged the foregoing instrument and stated that the information contained herein is true and correct to the best of his/her knowledge and belief.

NC drivers license
#1864089

Virginia B. Winkler
Notary Public

My Commission Expires: _____



26044142563


AFFIDAVIT OF CHRISTY WILSON

Christy Wilson, being duly sworn, deposes and states as follows:

1. I am over eighteen years of age and have personal knowledge of the facts herein.
2. I am a resident of Huntersville, North Carolina.
3. I was the Finance Director for the Broyhill for Congress Campaign (the "Committee"). As part of my duties I oversaw the preparation and submission of FEC Form 10 filings by the Committee.
4. Attached as Exhibit A are true and correct copies of a facsimile confirmation sheet, showing delivery of the Committee's Form 10 on March 12, 2004, and an email showing delivery of the Form 10 to other candidates in the primary along with a delivery notification sheet. This facsimile confirmation sheet can be distinguished from the initial Form 10 filed by the Committee on the same day by the time stamp. The FEC's facsimile machine stamped the initial Form 10 fax at 6:06 pm on March 12, 2004. The facsimile confirmation sheet attached hereto was sent at 9:59 pm on March 12, 2004.
5. Attached as Exhibit B is a true and correct copy of an email delivery notification showing delivery of the Committee's Form 10 on May 1, 2004 to an FEC address.
6. Attached as Exhibit C is a true and correct copy of an email delivery notification showing delivery of the Committee's Form 10 on June 9, 2004 to an FEC address.

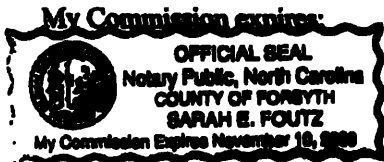
Further the affiant sayeth not.

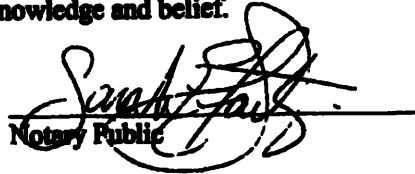
This 5th day of April, 2005.


Christy Wilson, Finance Director
Broyhill for Congress

STATE OF NORTH CAROLINA)
COUNTY OF FORSYTH)

This 5th day of April, 2005, Christy Wilson personally appeared before me, a Notary Public in and for the State and County aforesaid, who after being duly sworn on oath acknowledged the foregoing instrument and stated that the information contained herein is true and correct to the best of her knowledge and belief.




Notary Public

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A

EXHIBIT A

**Facsimile transmission report of March
12, 2004 Form 10 and email of March 12,
2004 Form 10 to Broyhill opponents.**

Mar. 12 2004 18:08PM

| NO. | OTHER FACSIMILE | START TIME | USAGE TIME | MODE | PAGES | RESULT |
|-----|-----------------|-----------------|------------|------|-------|--------|
| 01 | 2622190174 | Mar. 12 09:59PM | 00'41 | END | 01 | OK |

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From: Cwilson [cwilson@broyhill.net]
Sent: Thursday, March 03, 2005 2:01 PM
To:
Cc:
Subject: FW: FEC Form 10

Attachments: form102.jpg

-----Original Message-----
From: Christy Wilson [mailto:christywilson@broyhillforcongress.us]
Sent: Saturday, March 13, 2004 8:43 PM
To:
Subject: FEC Form 10

| | | |
|---|--|-----------------------------------|
| Broyhill for Congress | | A North Carolina Tradition |
| Christy Wilson | | Broyhill for Congress |
| Finance Director | | Post Office Box 5656 |
| | Winston-Salem, North Carolina 27113 | |
| | | tel: 336-794-0900 |
| | | fax: 336-765-6994 |
| | | mobile: 704-699-0631 |
| christywilson@broyhillforcongress.us | | |

Powered by Plaxo Add me to your address book... Want a signature like this?

PEC FORM 10

24-HOUR NOTICE OF EXPENDITURE FROM CANDIDATE'S PERSONAL FUNDS (11 CFR 401.21 and 401.22) **(Millionaire's Amendment)**

| | | | | |
|---|----------------------------------|-----------------------------------|-------------------------|--|
| 1. Name of Candidate Ed Brophy | 2. Office Sought House | 3. State North Carolina | 4. District 5 | 5. Candidate ID Number E 4 NC03195 |
| 6. Name of Principal Campaign Committee Brophy for Congress | | | | 7. Committee ID Number C 0000000 |
| 8. Address Post Office Box 5656 | | | | |
| 9. City, State and ZIP Code Winston-Salem, North Carolina 27113 | | | | |

10. Expenditures of Personal Funds (If the candidate has made expenditures for different elections, submit a separate Form 10 for each election.)

Aggregate Expenditures Previously Reported During the Election Cycle

50000.00

| | DATE | ELECTION | AMOUNT | CHECK IF LOAN |
|----|----------------|---|----------|-------------------------------------|
| A. | 03 / 12 / 2004 | <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other | 25000.00 | <input checked="" type="checkbox"/> |
| B. | | <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other | | <input type="checkbox"/> |
| C. | | <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other | | <input type="checkbox"/> |
| D. | | <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other | | <input type="checkbox"/> |

11. Total Expenditures This Notice

25000.00

12. Total Expenditures Election Cycle To Date

40000.00

TYPE OR PRINT NAME OF COMMITTEE TREASURER

L. Glenn Orr, Jr.

SIGNATURE OF COMMITTEE TREASURER

DATE

Signature on file with FEC

03-13-2004

| | | |
|--|--|--|
| | | |
|--|--|--|

For further information contact:
 Federal Election Commission, 600 E. Street, NW, Washington, DC 20463
 Toll Free 800-424-9536, Local 202-694-1100

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B

EXHIBIT B

**Email read receipt of May 1, 2004 Form
10 showing transmission to FEC.**

April 30 Form 10 confirmation
From: Cwilson [cwilson@broyhill.net]
Sent: Tuesday, March 01, 2005 4:33 PM
To: Tim Nerhood
Subject: April 30 Form 10 and confirmation
Attachments: FEC430.tif

-----Original Message-----

From:
Sent: Saturday, May 01, 2004 10:48 PM
Subject:

-----IMA4e485e2.40c2/broyhillforcongress.us
Content-Type: text/plain; charset=us-ascii

Your message was successfully relayed to a system that does not support delivery confirmations.
Unless the delivery fails, this will be the only delivery notification.

-----IMA4e485e2.40c2/broyhillforcongress.us
Content-Type: message/delivery-status

Reporting-MTA: broyhillforcongress.us
Final-Recipient: rfc822;2022190174@fec.gov
Action: relayed
Status: 2.0.0

-----IMA4e485e2.40c2/broyhillforcongress.us
Content-Type: message/rfc822

Received: from christy [67.35.187.109] by broyhillforcongress.us with ESMT
(SMTPD32-8.05) id A5C6164800CA; Sat, 01 May 2004 21:47:34 -0500
Return-Receipt-To: "Christy Wilson" <christywilson@broyhillforcongress.us>
From: "Christy Wilson" <christywilson@broyhillforcongress.us>
To: <christywilson@broyhillforcongress.us>
Subject: FEC
Date: Sat, 1 May 2004 22:47:49 -0400
Message-ID:
<1~!UENERkVCMDkAAQACAAAAAAAAAAAAAAAAABgAAAAAAAAA5fhbm3z050S6kMHm/xtjRsKAAAAQ
AAAA11PAK/2hsk00ie7ijOwnxAEAAAAA@broyhillforcongress.us>
MIME-Version: 1.0
Content-Type: multipart/mixed;
boundary="-----_NextPart_000_0000_01c44B4F.257E99D0"
X-Priority: 3 (Normal)
X-MSMail-Priority: Normal
X-Mailer: Microsoft Outlook, Build 10.0.4510
Importance: Normal
X-MimeOLE: Produced By Microsoft MimeOLE V6.00.2800.1165
Disposition-Notification-To: "Christy Wilson"
<christywilson@broyhillforcongress.us>

-----IMA4e485e2.40c2/broyhillforcongress.us--

26044142574

C

EXHIBIT C

**Email read receipt of June 9, 2004 Form
10 showing transmission to FEC.**

26044142575

June 9 Form 10 confirmation.txt
From: Cwilson [cwilson@broyhill.net]
Sent: Tuesday, March 01, 2005 5:46 PM
To: Tim Nerhood
Subject: 6/8

Attachments: FEC509.tif

-----Original Message-----

From:
Sent: Wednesday, June 09, 2004 6:25 PM
Subject:

-----IMA4c47846.40ec/broyhillforcongress.us
Content-Type: text/plain; charset=us-ascii

Your message was successfully relayed to a system that does not support delivery confirmations. Unless the delivery fails, this will be the only delivery notification.

-----IMA4c47846.40ec/broyhillforcongress.us
Content-Type: message/delivery-status

Reporting-MTA: broyhillforcongress.us
Final-Recipient: rfc822;2022190174@fec.gov
Action: relayed
Status: 2.0.0

-----IMA4c47846.40ec/broyhillforcongress.us
Content-Type: message/rfc822

Received: from christy [66.56.135.58] by broyhillforcongress.us with ESMTP (SMTPD32-8.05) id A80F5760152; Wed, 09 Jun 2004 17:24:15 -0500
Return-Receipt-To: "Christy Wilson" <christywilson@broyhillforcongress.us>
From: "Christy Wilson" <christywilson@broyhillforcongress.us>
To: <christywilson@broyhillforcongress.us>
Subject: FEC
Date: Wed, 9 Jun 2004 18:24:31 -0400
Message-ID: <!~!UENERkVCMdKAAQACAAAAAAAAAAAAAAAAABgAAAAAAAAA5fHbm3zO50S6kMHm/xtjRsKAAAAQAAAAd4Jb87tXC0qFt7mFcqa/sQEAAAAA@broyhillforcongress.us>
MIME-Version: 1.0
Content-Type: multipart/mixed;
boundary="-----_NextPart_000_0003_01c4644f.AE550D20"
X-Priority: 3 (Normal)
X-MSMail-Priority: Normal
X-Mailer: Microsoft Outlook, Build 10.0.4510
Importance: Normal
X-MimeOLE: Produced By Microsoft MimeOLE V6.00.2800.1165
Disposition-Notification-To: "Christy Wilson" <christywilson@broyhillforcongress.us>

-----IMA4c47846.40ec/broyhillforcongress.us--